IN THE DISTRICT COURT OF THE UNITED STATES FOR THE

MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

CITIGROUP, INC., et al.,	)	
	)	
Appellants,	)	
	)	
v.	)	CIVIL ACTION NO. 03-T-540-N
	)	
CHRISTINE HARRIS,	)	
	)	
Appellee.	)	
CITIGROUP, INC., et al.,	)	
	)	
Appellants,	)	
	)	
v.	)	CIVIL ACTION NO. 03-T-541-N
	)	
CHRISTINE HARRIS,	)	
	)	
Appellee.	)	
CITIGROUP, INC., et al.,	)	
	)	
Appellants,	)	
	)	
v.	)	CIVIL ACTION NO. 03-T-580-N
	)	
CLYDE and BERTHA HAYES,	)	
	)	
Appellees.	)	
CITIGROUP, INC., et al.,	)	
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Appellants,	)	
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v.	)	CIVIL ACTION NO. 03-T-581-N
	)	
CLYDE and BERTHA HAYES,	)	
	)	
Appellees.	)	

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OPINION

These consolidated cases on appeal from the bankruptcy court present two related issues: (1) whether the bankruptcy court has jurisdiction to hear a "Tippins actions," that is, a request to enjoin a former debtor from pursuing a state lawsuit when a chapter 13 bankruptcy proceeding involving the same parties and similar claims existed prior to the injunction request; and (2) whether removal from state court to the bankruptcy court of a former debtor's state-law claims against creditors was proper, when removed occurred either after the bankruptcy court's dismissal of the underlying bankruptcy proceeding involving the same parties or after the debtor received a discharge. Appellants refer to the independent action to enjoin appellees' state-law claims as "Tippins actions," based on the opinion in American General Fin. Inc. v. Tippins (In re Tippins), 221 B.R. 11 (Bankr. N.D. Ala. 1998). In the interests of clarity, the court will also refer to the independent action to enjoin appellees as "Tippins actions," and will refer to the cases removed from state court as the "removed civil actions."

I. STANDARD OF REVIEW

This court "functions as an appellate court in reviewing the bankruptcy court's decision." In re Sublett, 895 F.3d 1381, 1383 (11th Cir. 1990) (citing 28 U.S.C.A. § 158(a)). Accordingly, the bankruptcy court's "[f]indings of fact, whether based on oral or documentary evidence, shall not be set aside unless clearly erroneous." Fed. R. Bankr. P. 8013.

In contrast to the deference given factual findings, the court examines the bankruptcy court's legal conclusions de novo. In re Club Associates, 951 F.2d 1223, 1228-29 (noting that a court hearing an appeal from the bankruptcy court "freely examines the applicable principles of law to see if they were properly applied").

II. BACKGROUND

Although the relevant facts in this case are not in dispute, a brief review is helpful for understanding the current procedural posture of these appeals.

A. The Harris Litigation

Appellee Christine Harris filed a voluntary bankruptcy petition under chapter 13 on May 2, 2002, and her plan was

confirmed by the bankruptcy court on June 25, 2002. Harris's bankruptcy case was subsequently dismissed on October 1, 2002, for failure to make required payments under the plan.

On July 22, 2002, Harris filed a lawsuit in state court against appellants (Citigroup, Inc. and others), charging fraud, negligent and wanton hiring, training and supervision, unconscionability, and unjust enrichment. On October 30, 2002, appellants removed the state-court action to the bankruptcy court, and simultaneously filed a Tippins action, requesting that the bankruptcy court enjoin Harris from pursuing her claims in state court. Harris filed a motion to remand, which the bankruptcy court granted on April 17, 2003; the bankruptcy court also determined that it did not have jurisdiction to hear appellants' Tippins action. Appellants then appealed to this district court.

B. The Hayes Litigation

Appellees Clyde and Bertha Hayes filed a voluntary bankruptcy petition under chapter 13 on November 8, 1999, and their plan was confirmed by the bankruptcy court on January 12, 2000. The Hayeses' confirmed plan called for 100% payment on

all unsecured claims, and, on February 4, 2003, the Hayeses completed payments under the plan.

After the payments were completed, the Hayeses filed a lawsuit in state court against appellants (Citigroup, Inc., and others), charging fraud, negligent and wanton hiring, training and supervision, unconscionability, and unjust enrichment. On March 10, 2003, appellants removed the state-court lawsuit to the bankruptcy court, and filed a Tippins action on April 11, 2003, requesting that the bankruptcy court enjoin the Hayeses from pursuing their claims in state court. The Hayeses filed a motion to remand, which the bankruptcy court granted on April 21, 2003; the bankruptcy court also determined that it did not have jurisdiction to hear appellants' Tippins action. This appeal then ensued.

III. DISCUSSION

Appellants advance several theories to support a finding that the bankruptcy court has jurisdiction over both the Tippins actions and the removed civil actions. First, appellants contend the bankruptcy court has jurisdiction pursuant to the "arising under" and "arising in" prongs of 28 U.S.C.A. § 1334(b). Second, appellants contend that the

bankruptcy court has "related to" jurisdiction, also under § 1334(b). Last, appellants contend that the bankruptcy court has jurisdiction under 28 U.S.C.A. § 157 to hear all of the actions, because the actions are "core proceedings," and bankruptcy courts have jurisdiction to hear all core proceedings. For the reasons discussed below, the court finds that the bankruptcy court does not have jurisdiction to hear appellants' Tippins actions and the removed civil claims; the orders of the bankruptcy court will be affirmed.

A. "Tippins" Actions

Bankruptcy courts, like all federal courts, are courts of limited jurisdiction. Celotex Corporation v. Edwards, 514 U.S. 300, 307, 115 S.Ct. 1493, 1498 (1995) ("The jurisdiction of bankruptcy courts, like that of other federal courts, is grounded in, and limited by, statute."). District courts have "original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11." 28 U.S.C.A. § 1334(b). This statute grants district courts (and therefore bankruptcy courts) jurisdiction over three types of civil proceedings: those "arising under" title 11, those "arising in" a case under title

11, and those "related to" a case under title 11. Appellants contend that the bankruptcy court has jurisdiction over the Tippins actions because the bankruptcy court has all three types of the above listed jurisdiction.

1. "Arising Under" and "Arising In" Jurisdiction

Appellants contend that the bankruptcy court has "arising under" jurisdiction because the Tippins actions seek to invoke substantive rights conferred by 11 U.S.C.A. § 1327, which states that confirmed plans bind both debtors and creditors. Appellants further contend that "arising under" and "arising in" jurisdiction exists because the actions at bar are actions requesting interpretation and enforcement of the bankruptcy court's previous orders.

Acceptance of appellants' argument would lead to an untenable result. While it is true that § 1327(a) requires confirmed plans to bind the debtor and the creditor, confirmed plans do not continue in existence indefinitely. "Only a belief that bankruptcy is forever could produce a case such as this." Pettibone Corp. v. Easley, 935 F.2d 120, 121 (7th Cir. 1991). For the reasons explained below, after Harris's

dismissal and the Hayeses' discharge, the appellees were no longer required to bring any claims against creditors in bankruptcy court, but rather were free to seek relief for state-law causes of action in state court.

The purpose of dismissals of confirmation plans is to put the parties in the same position as they were before the bankruptcy proceedings. The Eleventh Circuit Court of Appeals explained that 11 U.S.C.A. § 349 (the statute authorizing dismissals of bankruptcy cases) operates so the "dismissal of the bankruptcy case usually results in dismissal of all remaining adversary proceedings." Morris v. Fidelity & Deposit Co. of Maryland, 950 F.2d 1531 (11th Cir. 1992). This is not an absolute rule: "based on considerations of judicial economy, fairness and convenience to the litigants, and the degree of difficulty of the legal issues involved, a bankruptcy court may, by virtue of 11 U.S.C.A. § 349(a), alter the normal effects of the dismissal of a bankruptcy case by retaining jurisdiction over an adversary proceeding after the underlying bankruptcy case has been dismissed." 193 B.R. 971 (Bankr. N.D. Ala. 1996). However, there is nothing in the statute that mandates retention of such jurisdiction. The Senate report on the Bankruptcy Reform Act of 1978 further explains the

function of dismissal in bankruptcy cases: "The basic purpose of the subsection [11 U.S.C.A. § 349(b)] is to undo the bankruptcy case, as far as practicable, and to restore all property rights to the position in which they were found at the commencement of the case." S. Rep. No. 95-989, at 49 (1978). If the court were to accept appellants' position, then a dismissal would have the effect of barring all parties' claims against each other, even though the parties had been returned to their original positions and their debts and obligations had not been discharged. If this position were accepted, a bankruptcy dismissal could never be effectuated, as the parties would always be bound by obligations undertaken pursuant to bankruptcy proceedings.

Therefore, the court disagrees with appellants' view that, after dismissal of a chapter 13 bankruptcy case, appellees are barred from pursing their claims in state court. After dismissal, a creditor does not indefinitely continue to be shielded from all of a debtor's claims in state court.

Similarly, when creditors have been paid at 100%, a creditor cannot use a past bankruptcy proceeding as a shield against litigation in state court. The purpose of a discharge, as opposed to a dismissal, is to offer a debtor lasting

protection from a creditor's claims to debts that were included in the confirmed plan, thereby allowing the debtor to make a "fresh start." In re Snipes, 190 B.R. 450, 452 (Bankr. M.D. Fla. 1995). The statute defining the effect of a chapter 13 discharge states that discharge "operates as an injunction against the commencement or continuation of an action, the employment of process, or an act, to collect, recover or offset any such debt as a personal liability of the debtor, whether or not discharge of such debt is waived." 11 U.S.C.A. § 524. No corresponding injunction exist by virtue of the statute to protect a creditor from claims by the debtor commenced after discharge.[1] While a discharge does have a lasting effect on the parties, appellants have not pointed to any statutory provision or order in the bankruptcy discharge itself that bars appellees from pursuing a claim against appellants. Therefore, an action seeking to bar such a suit cannot "arise under" title 11, as it does not enforce a substantive right under the code.

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1. This is not to say that a debtor is without obligations or duties. For example, a debtor who fails to list a potential claim against a creditor as an asset may be judicially estopped from asserting it post-discharge, Chandler v. Samford University, F. Supp.2d 861 (N.D. Ala. 1999), and a creditor who is sued post-discharge can always attempt to assert estoppel as a defense.

The court also rejects appellants' claim that "arising under" and "arising in" jurisdiction exists on the basis that appellants are requesting interpretation of an earlier substantive order. Appellants' argument regarding this theory of jurisdiction relies heavily on Beneficial Trust Deeds v. Franklin, 802 F.2d 324 (9th Cir. 1984). Although that case did involve a finding by the Ninth Circuit Court of Appeals that a bankruptcy court has jurisdiction to enforce the terms of its orders, appellants fail to mention that the order at issue in Franklin was specifically created to survive the dismissal of debtor's bankruptcy case.[2] The Franklins entered into an agreement with their creditors that was specifically crafted to be effective against any subsequent bankruptcy filing. Franklin does not stand for the proposition that a bankruptcy court has jurisdiction over state-court causes of action simply because a bankruptcy proceeding once existed--rather, it stands for the premise that, where a bankruptcy court issues an order

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2. Franklin involved what the Ninth Circuit called "a striking example of how, on occasion, debtors attempt to misuse the bankruptcy mechanism and to delay and stall creditors from exercising their state rights." 802 F.2d at 325. Apparently, by the time the case was heard by the circuit court, the Franklins had five bankruptcy petitions in the period of 17 months.

in an adversarial proceeding that is specifically intended to survive dismissal of the bankruptcy proceeding, that court may take steps to enforce that order.

Similarly, a bankruptcy court may have supplemental jurisdiction over adversarial proceedings after the debtor has received a discharge; however, the court must chose to retain jurisdiction over the adversarial proceedings--the general rule is that jurisdiction is not retained absent an express decision to do so. Matter of Querner, 7 F.3d 1199, 1201 (5th Cir. 1993)("We hold, in accord with the Third, Ninth, and Eleventh Circuits, that as a general rule the dismissal or closing of a bankruptcy case should result in the dismissal of related proceedings."). In the cases at bar, there was no specific order intended to have post-dismissal or post-discharge effect to be interpreted or enforced. Rather, appellants claim that the fact that debtor did not bring the claim in the bankruptcy hearing should bar future claims by the debtors in state court. However, for the reasons above, Franklin simply does not stand for as broad a proposition as appellants would like.

2. "Related To" Jurisdiction

Appellants also contend that the bankruptcy court has jurisdiction under 28 U.S.C. § 1334(b) because the present actions are "related to" appellees' chapter 13 bankruptcy cases. "Related to" jurisdiction exists if "the outcome of the proceeding could conceivably have an effect on the estate being administered in bankruptcy." Matter of Lemco Gypsum, 910 F.2d 784, 788 (11th Cir. 1990). However, in these cases, as the bankruptcy court observed in one of them, "there is no estate which is being administered in bankruptcy. The estate ceased to exist when the chapter 13 case was dismissed. ... Therefore, the removed civil action could have no conceivable effect on a nonexistent estate." Harris v. Citigroup, Adv. No. 02-3128-DHW, exh. 8, slip op. at 5-6 (M.D. Ala. April 17, 2003).

As the test of whether "related to" jurisdiction exists is the nexus between the adversarial procedure and the underlying bankruptcy estate, there cannot be any "related to" jurisdiction here, because there is no longer any underlying bankruptcy estate.

The statute governing bankruptcy dismissals states that "unless a court, for cause, orders otherwise ... [a dismissal] revests the property of the estate in the entity in which such

property was vested immediately before the commencement of the case under this title." 11 U.S.C.A. § 349(b)(3). Hence, under the normal operation of this rule which provides that at dismissal the estate ceases to exist, "related to" jurisdiction for this type of action also ceases to exist upon dismissal. The court is aware that there are exceptions that allow a bankruptcy court to retain jurisdiction over such adversarial proceedings after it dismisses the main bankruptcy case, but the appellants have not cited to any authority which states that a federal court has jurisdiction over an adversarial proceeding that is filed only after the underlying case has been dismissed.

Similarly, in a chapter 13 bankruptcy case where the creditors have been paid at 100% and the debtor is entitled to a discharge, there is simply nothing left to which the adversarial proceeding can be related. The creditors have received all the monies due to them--any recovery the debtors may receive in state court could not possibly affect the estate, as the bankruptcy estate has long since ceased to exist. In re Craig's Stores of Texas, Inc., 266 F.3d 388, 390 (5th Cir. 2001) ("After a debtor's reorganization plan has been confirmed, the debtor's estate, and thus bankruptcy

jurisdiction, ceases to exist, other than for matters pertaining to the implementation or execution of the plan.").

Quite simply, appellants have failed to demonstrate how the present independent actions could conceivably affect the bankruptcy estates, as neither estate was being administered in bankruptcy when the Tippins actions were filed.

3. Core Proceedings

This section of appellants' argument is based on the following syllogism: the Tippins actions are "core proceedings," bankruptcy courts have jurisdiction over all core proceedings (because all core proceedings arise under, arise in, or are related to a case under title 11), and therefore the bankruptcy court has jurisdiction over the Tippins actions. While bankruptcy courts do have jurisdiction over all core proceedings, an examination of the definition of core proceedings reveals that appellants' Tippins actions are not core proceedings.

The Eleventh Circuit, in In Re Toledo, adopted the following definition of a core proceeding:

> "The most helpful explanation of what is a core proceeding, accepted almost universally by the courts, is found in the

> Fifth Circuit's decision in Wood v. Wood (In re Wood), 825 F.2d 90 (5th Cir.1987):
>
> "'If the proceeding involves a right created by the federal bankruptcy law, it is a core proceeding; for example, an action by the trustee to avoid a preference. If the proceeding is one that would arise only in bankruptcy, it is also a core proceeding; for example, the filing of a proof of claim or an objection to the discharge of a particular debt. If the proceeding does not invoke a substantive right created by the federal bankruptcy law and is one that could exist outside of bankruptcy it is not a core proceeding; it may be *related* to the bankruptcy because of its potential effect, but under section 157(c)(1) it is an "otherwise related" or non-core proceeding.'"

170 F.3d 1340, 1348 (11th Cir. 1999).

Under this definition, appellants' Tippins actions do not meet the definition of a core proceeding. There is no substantive right created by federal bankruptcy law that appellants are attempting to enforce through this action, and appellants do not assert a claim that could only be brought in a bankruptcy proceeding.

Appellants rely on National Gypsum Co. v. NGC Settlement Trust & Asbestos Claims Management Corp. (In re National Gypsum), 118 F.3d 1056 (5th Cir. 1997) for the proposition that a Tippins action is a core proceeding. In re National Gypsum

addresses whether or not a request for a declaratory judgment stating that a company was barred from collection efforts under a discharge injunction pursuant to 11 U.S.C.A. § 524 (a chapter 11 discharge) was a core proceeding. Id. at 1064. The court held that a declaratory judgment enforcing a discharge injunction was enforcement of a substantive right under the bankruptcy code, and therefore was a core proceeding. The case does not stand for the proposition appellants advance that all Tippins actions seeking declarations or injunctions are core proceedings. The declaratory judgment in In Re National Gypsum was held to be a core proceeding because the court found the injunction was seeking to enforce a substantive right, not because all actions seeking a declaratory judgment "that a party's efforts or actions are barred by a confirmation order" are core proceedings. Appellants' Brief, filed June 23, 2003 (Doc. no. 6), at 16. Similarly, appellants have not shown that there is any substantive right eternally barring debtors from actions against creditors after a discharge has been granted due to full payment of the debt, nor after a case has been dismissed. In contrast to In Re National Gypsum, and as has already been discussed, in the present cases there is no

substantive right appellants seek to enforce. Therefore, the Tippins actions in the present cases are not core proceedings.

B. Removed Civil Actions

The bankruptcy court cannot hear the removed civil actions because no federal subject-matter jurisdiction exists. The complaints filed in state court contain only state-law claims over which the federal courts have no jurisdiction over. The appellants' defenses rely on federal law, but appellees' complaints in state court, on their faces, do not. The Supreme Court has ruled on precisely this issue: "claim preclusion by reason of a prior federal judgment is a defensive plea that provides no basis for removal under § 1441(b). Such a defense is properly made in the state proceedings, and the state courts' disposition of it is subject to this Court's ultimate review." Rivet v. Regions Bank of Louisiana, 522 U.S. 470, 478, 118 S.Ct. 921, 926 (1998) (holding that removal of state law claim to federal court based upon the defense that the action was barred by a prior bankruptcy court determination was inappropriate). Therefore, the removed civil actions were correctly remanded.

The court also finds unconvincing appellants' argument that the bankruptcy court has jurisdiction over the state-law claims because the state-law claims are properly categorized as counterclaims, and therefore core proceedings under 11 U.S.C.A. § 157. The cases at bar do not present a counterclaim in a bankruptcy proceeding to a creditor's proof of claim. There no longer is a bankruptcy proceeding, therefore the claim is not a counterclaim. Appellants' argument that a counterclaim is a core proceeding may be correct, but it is simply inapplicable.

IV. CONCLUSION

Because the bankruptcy court did not have jurisdiction to hear the Tippins and removed civil actions filed by appellants, this court will affirm the orders of the bankruptcy court. An appropriate judgment will be entered.

DONE, this the 27th day of January, 2003.

MYRON H. THOMPSON
UNITED STATES DISTRICT JUDGE

FILED

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE

MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

JAN 27 2004

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

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JUDGMENT

In accordance with the memorandum opinion entered today, it is the ORDER, JUDGMENT, and DECREE of the court that the appealed orders of the bankruptcy court are affirmed

It is further ORDERED that costs are taxed against appellants, for which execution may issue.

The clerk of the court is DIRECTED to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DONE, this the 27th day of January, 2003.

MYRON H. THOMPSON
UNITED STATES DISTRICT JUDGE

Effective November 1, 2003, the new fee to file an appeal is $255.00

CIVIL APPEALS CHECKLIST

1. Appealable Orders: Courts of Appeals have jurisdiction conferred and strictly limited by statute:
Appeals from Final Orders Pursuant to 28 U.S.C. § 1291: Only final judgments for orders of district courts (or final orders o bankruptcy courts which have been affirmed by a district court under 28 U.S.C. §158) usually are appealable. A "final" order i one which ends the litigation on its merits and leaves nothing for the district court to do but execute the judgment. A magistrate'. report and recommendation is not usually final until judgment thereon is entered by a district court judge. Compare Fed.R.App.P 5.1, 28 U.S.C. §636(c).

In cases involving multiple parties or multiple claims, a judgment as to fewer than all parties or all claims is not a final, appealabl decision. Fed.R.Civ.P. 54(b) does permit the district court to expressly direct entry of the judgment as fewer than all of the claim or parties. See Pitney Bowes, Inc. v. Mestre, 701 F.2d 1365, 1369 (11th Cir. 1983), cert. denied 464 U.S. 893(1983). Certa matters, such as attorney's fees and costs, are collateral and do not affect the time for appealing from the judgment on the merits Buchanan v. Stanships, Inc., 485 U.S. 265, 108 S.Ct. 1130, 99 L.Ed 2d 289(1988); Budinich v. Becton, 485 U.S. 196, 10 S.Ct.1717, 100 L.Ed 2d 178 (1988)

Appeals Pursuant to 28 U.S.C. § 1292(b) and FRAP 5: The certificate specified in 28 U.S.C. § 1292(b) must be obtained befor an application for leave to appeal is filed in the Court of Appeals. Denial or refusal by the district court to issue the certificate i not itself appealable.

Appeals Pursuant to 28 U.S.C. § 1292(a): Pursuant to this statute, appeals are permitted from orders "granting, continuing, modifying, refusing or dissolving injunctions or refusing to dissolve or modify injunctions..." and "[i]nterlocutory decrees... determining the rights and liabilities of parties to admiralty cases..." This statute does not permit appeals from temporary restraining orders.

Appeals pursuant to Judicially Created Exceptions to the Finality Rule: These limited exceptions are discussed in many cases, including (but not limited to): Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541, 69 S.Ct. 1221, 93 L.Ed 2d 1528 (1 :3); Forgay v. Conrad, 6 How. (47 U.S.) 201 (1848); Gillespie v. United States Steel Corp., 379 U.S. 148, 152, 85 S.Ct. 308, 311, 13 L.Ed 2d 199 (1964); Atlantic Federal Savings & Loan Assn. Of Ft. Lauderdale v. Blythe Eastman Paine Webber, Inc., 890 F.2d 371 (11th Cir. 1989). Compare Coopers and Lybrand v. Livesay, 437 U.S. 463, 98 S.Ct. 2454, 57 L.Ed 2d 351 (1978); Gulfstream Aerospace Corp. V. Mayacamas Corp., 485 U.S. 271, 108 S.Ct. 1133, 99 L.Ed 2d 296 (1988).

2. Time for Filing: To be effective a notice of appeal must be timely filed. Timely filing is jurisdictional. In civil cases FRAP 4(a) and 4(c) set the following time limits:

FRAP 4(a)(1): The notice of appeal required by FRAP 3 "must be filed with the clerk of the district court within 30 days after the date of entry of the judgment or order appealed from; but if the United States or an officer or agency thereof is a party, the notice of appeal may be filed by any party within 60 days after such entry..." (Emphasis added) To be effective, the notice of appeal generally must be filed in the district court clerk's office within the time permitted. If a notice of appeal is mailed, it must be timely received and filed by the district court to be effective. FRAP 4(c) establishes special filing provisions for notices of appeal filed by an inmate confined in an institution, as discussed below.

FRAP 4(a)(3): "If one party timely files a notice of appeal, any other party may file a notice of appeal within 14 days after the date when the first notice was filed, or within the time otherwise prescribed by this Rule 4(a), whichever period last expires." (Emphasis added)

FRAP 4(a)(4): If any party makes a timely motion in the district court under the Federal Rules of Civil Procedure of a type specified in FRAP 4(a)(4), the time for appeal for all parties runs from the entry of the order disposing of the last such timely filed motion outstanding.

FRAP 4(a)(5) and FRAP 4(a)(6): The district court has power to extend the time to file a notice of appeal. Under FRAP 4(a)(5) the time may be extended if a motion for extension if filed within 30 days after expiration of the time otherwise permitted to file a notice of appeal. Under FRAP 4(a)(6) the time may be extended if the district court finds upon motion that a party has not received notice of entry of the judgment or order and that no party would be prejudiced by an extension.

FRAP 4(c): "If an inmate confined in an institution files a notice of appeal in either a civil case or a criminal case, the notice of appeal is timely if it is deposited in the institution's internal mail system on or before the last day for filing. Timely filing may be shown by a notarized statement or by a declaration (in compliance with 28 U.S.C. § 1746) setting forth the date of deposit and stating that first-class postage has been prepaid.

3. Format of Notice of Appeal: Form 1, FRAP Appendix of Forms, is a suitable format. See also FRAP 3(c).
A single notice of appeal may be filed from a (single) judgment or order by two or more persons whose "interests are such as to make joinder practicable..." (FRAP 3(b))

4. Effect of Notice of Appeal: A district court loses jurisdiction (authority) to act after the filing of a timely notice of appeal, except for actions in aid of appellate jurisdiction (see Fed.R.Civ.P. 60) or to rule on a timely motion of the type specified in FRAP 4(a)(4).